

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



REC'D 08 JUN 2004

WIPO PCT

Applicant's or agent's file reference P200200290 WO		<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/DK 03/00138	International filing date (day/month/year) 06.03.2003	Priority date (day/month/year) 07.03.2002	
International Patent Classification (IPC) or both national classification and IPC B65D5/42, B65D5/42			
Applicant PETERSON BECK A/S et al.			

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
 These annexes consist of a total of 2 sheets.

- This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  30.09.2003	Date of completion of this report  07.06.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Appelt, L  Telephone No. +49 89 2399-2570 

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/DK 03/00138**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

**Description, Pages**

1-9 as originally filed

**Claims, Numbers**

1-5 received on 04.03.2004 with letter of 04.03.2004

**Drawings, Sheets**

1/3-3/3 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
  - ☐ the language of publication of the international application (under Rule 48.3(b)).
  - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
  - ☐ filed together with the international application in computer readable form.
  - ☐ furnished subsequently to this Authority in written form.
  - ☐ furnished subsequently to this Authority in computer readable form.
  - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
  - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. The amendments have resulted in the cancellation of:
- ☐ the description, pages:
  - ☐ the claims, Nos.:
  - ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-5
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-5
Industrial applicability (IA)	Yes: Claims	1-5
	No: Claims	

2. Citations and explanations

**see separate sheet**

**Concerning section V.**

***Certain observations concerning the clarity of the claims***

It is clear from the whole content of the description that it is essential for the performance of the invention that the surface which will form the outer side of the filled carton box should be coated with the water-impermeable varnish layer, while the surface that will finally face the food to be packaged is coated with a paraffin layer (according to the description, this surface may also be coated with a varnish finishing) and includes a plurality of pin holes.

Such a construction of the block carton will render the outside of the carton box printable while the pin holes may allow controlled liquid absorption into the cardboard material.

However, neither these features nor the effects obtainable by these features are unambiguously indicated in the present claims.

In particular, it is not indicated in claim 1 which of the first and second coatings should be the outer or inner coating, respectively. It is also not indicated in the independent claim that one of the coatings and, in particular, which one should be printable.

An imprint on the cover for block carton is also not mentioned in claim 1. Accordingly, a print layer on the carton coated by a layer of varnish - although not envisaged according to the description - would also be included in the scope of claim 1.

***Claim 1***

The closest prior art is disclosed in the document WO-A-01/15977 (D1). In particular, this document discloses a cover for block carton having first and second surfaces, wherein the second surface (in this block carton finally constituting the inner surface) is a paraffin coating including a large number of pinhole openings (see page 2, lines 23 to 29).

Accordingly, the subject-matter of claim 1 differs from the cover disclosed in D1 in that the first coating is selected from among the group consisting of water-based and hardenable/setting varnishes.

Having regard to the coating on the surface opposite the paraffin coating, D1 only makes reference to a coating without openings.

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In view of the teaching of the document D1, the objective technical problem can be seen in that a water-tight coating having a neat appearance should be formed on the outer side of the finally erected block carton (the problem of providing an easily printable outer surface on the cover cannot be regarded as the objective technical problem underlying the present application, since no single feature of the claims is related to the solution of this particular problem).

Having in mind this problem, the skilled man would - without any hesitation - use a coating described in the prior art as solving the above cited problem and exactly providing the required advantages.

Such a coating is - for example - disclosed in the documents EP-A-0811508 (D2; see page 3, lines 3 to 6 and 42 to 44) and US-A-5776619 (D3; see the last four lines of the abstract).

Consequently, the present claim 1 does not meet the requirements of Article 33 (3) PCT, because its subject-matter does not involve an inventive step.

***Claims 2 to 5***

The additional subject-matter of the present claims 2 and 4 is also disclosed in the document D1 (see in particular page 2, line 19 to page 3, line 2).

It is considered evident for the skilled man to apply a visual indication on one of the layers, e.g. in the form of a sticker or the like. Therefore, claim 3 also lacks an inventive step. In this context, it is pointed out that a "visual indication" does not necessarily encompass an imprint (which, if the side containing the visual indication were the paraffin coated side, would simply not be possible).

It is believed that it is easily conceivable for the skilled man that the total surface of the pin holes should only be such that the desired absorption effect into the cardboard material can be obtained. Accordingly, he will seek to let the pin holes cover only the minimum area necessary to provide this absorption effect.

Consequently, the values indicated in the present claim 5 cannot be regarded as requiring any inventive skill for the skilled man.